

## AOC Launches Online Self-Help Center

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To assist the ever-increasing numbers of litigants who go to court without legal counsel, in July the Judicial Council and the Administrative Office of the Courts (AOC) launched California's most comprehensive court-sponsored online self-help center. It is a link to the courts for self-represented litigants and others who wish to become better informed about the law and court procedures. The new site is accessible through the California courts' official Web site at [www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp).

"The online self-help center is a monumental project in the history of the California court system," says Deborah Mullin, Family Law Facilitator for the Superior Court of Santa Barbara County. "It really will provide a tremendous service to self-represented litigants, and I can't wait to in-

clude it as a link from our court's Web site."

According to the AOC, more than half of the litigants who use courts in California, an estimated 4.3 million individuals, are self-represented—that is, lacking attorneys. They are often unfamiliar with procedures and forms as well as with their rights and obligations, which can leave them disadvantaged in court and consume significant court resources.

"A significant number of individuals go to court without legal counsel, in large part because they cannot afford representation," says Chief Justice Ronald M. George, Chair of the Judicial Council, who has declared improved public access a top priority of the judicial branch. "Not only do we have an obligation to respond to their needs, we know that informed litigants help ensure a more just

and efficient process for both the litigants and the courts."

The new Web site is designed to help court users navigate the court process more successfully and be more realistic in their expectations of the legal system. For the many litigants for whom self-representation is not appropriate, the site offers numerous links to local lawyer referral services and helps them work better with their attorneys. But the number of Californians without representation is growing each year, and the trend shows no sign of abating. For these people, the online self-help center provides a comprehensive selection of tools and resources, giving them access to the kinds of legal information they need most. Although a wealth of information is provided, the writers of the site make

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## One Expert's View of Prop. 36 Hearings

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SUPERIOR COURT OF  
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MEMBER, PROPOSITION 36  
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Proposition 36, which took effect July 1 and generally prescribes treatment rather than incarceration for nonviolent drug offenders, continues to generate considerable questions concerning violations of probation (VOPs). Without proper management, VOPs under the new law have the potential to greatly affect court calendars. VOP hearings can potentially be numerous, lengthy, and full of procedural obstacles. A clear understanding of the issues involved is necessary to avoid a litigational Armageddon.

The code section that governs a VOP depends on the particular situation. To determine the appropriate code section, judges may want to ask three foundational questions: "What?" "Which?" and "Who?"

**What?** Different laws apply depending on whether the offense was a non-drug-related VOP or a drug-related VOP. For a non-drug-related VOP, the court's authority appears to be unchanged from former law, and the hearing proceeds as before.

(Pen. Code, § 1210.1(e)(2).) The statute does not define non-drug-related versus drug-related conditions, but in a different section it does define "related to the use of drugs" as involving simple possession or use of drugs or drug paraphernalia, being present where drugs are used, failure to register pursuant to section 11590, or "similar activity." (Pen. Code, § 1210(d).)

**Which?** If the court finds the alleged violation to be drug related, the court must next look to whether the VOP is a program violation or a new offense. Penal Code section 1210.1(c) deals with program violations, in which the defendant has been returned to court by the treatment provider for violating program rules or being "unamenable to treatment." Section 1210.1(e)(3), on the other hand, deals generally with drug-related VOPs. Under this subsection, the court must make additional findings before ruling that the defendant has violated probation. (On the first VOP, the additional finding is that the defendant is a "danger to others"; on the second VOP, it is that the defendant either is a danger to others or is unamenable to treatment.) In addition,

the defendant is limited to only three VOPs before probation must be terminated. Under section 1210.1(e), on the third VOP the court does not have the discretion to reinstate probation (and, presumably, treatment).

While at first blush program violations would seem to be drug-related terms, construing them as such would create an ambiguity in the statute, leaving the judge to wonder whether a VOP initiated under section 1210.1(c) is subject to the limitations of section 1210.1(e). The California Public Defenders Association, in its white paper on Proposition 36, takes the position that since program violations (not amounting to a new offense) are specifically covered in a separate section, they must be viewed as distinct from general drug-related VOPs, which would primarily be new drug offenses of the type listed in section 1210(d). (California Public Defenders Association, *An Analysis of Proposition 36* [April 30, 2001] p. 45.) Thus, the special findings for the first and second VOPs and the limitations on reinstatement for a third VOP contained in section 1210.1(e)(3) would not apply to program violations, only to other drug-related VOPs (primarily new drug offenses).

This position seems to have considerable logical appeal and to offer a sound basis for the dis-

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Judge Donald E. Shaver



On June 19 Justice Stanley Mosk died unexpectedly at his home in San Francisco, at the age of 88. Having served a record 37 years on the California Supreme Court and authored more than 1,500 opinions, he left a legacy that reaches far into the future of the courts.

Speaking for the six remaining Supreme Court justices at a memorial service in Los Angeles on June 26, Chief Justice Ronald M. George observed that “Justice Mosk’s landmark opinions, whether for the court or in dissent, have commanded national attention, and his views frequently were adopted by the United States Supreme Court and the Supreme Courts of other states. Even some of his rulings as a trial judge anticipated and paved the way for advances in our jurisprudence. The imprint he has left on the law will be recognized for decades to come, not only here in California but nationwide.... Many have described Justice Mosk as a giant in the law, an historic figure of legendary reputation. When one considers the legacy that he has left us, it is readily apparent that this is no clichéd embellishment of his record.”

Justice Mosk began his distinguished legal career when he was admitted to the California State Bar in 1935. He had a private practice in Los Angeles from 1935 to 1939, then held a position as executive secretary and legal advisor to California Governor Culbert Olson

*Associated Home Builders v. City of Walnut Creek* (1971) 4 Cal.3d 633, holding constitutional a requirement that developers of private land dedicate open space to public use.

*Bakke v. Regents of University of California* (1976) 18 Cal.3d 34, holding unconstitutional a program of admission to a public university based on racial quotas.

*Cobbs v. Grant* (1972) 8 Cal.3d 229, adopting the doctrine of informed consent, which requires doctors to disclose to their patients the treatments available and the risks inherent in each.

*Henning v. Industrial Welfare Commission* (1988) 46 Cal.3d 1262, striking down a two-tier minimum wage system that authorized a lower minimum wage for employees who received tips.

*In re Lynch* (1972) 8 Cal.3d 410, holding that the penalty for a crime can be so disproportionate to the offense that it violates the “cruel or unusual punishments” clause.

*In re Marriage of Carney* (1979) 24 Cal.3d 725, holding that disabled persons cannot be deprived of the custody

of their children on the basis of stereotypes about their fitness as parents.

*Miller v. Superior Court* (1999) 21 Cal.4th 883, holding that journalists cannot be jailed for contempt of court for refusing to give prosecutors unpublished material.

from 1939 to 1943. Justice Mosk served as a judge in the Los Angeles County Superior Court from 1943 to 1959, when he was elected to his first term as Attorney General of California. Following his re-election in 1962, Governor Edmund G. “Pat” Brown appointed him to the Supreme Court as an associate justice on September 1, 1964.

During his many years on the Supreme Court, Justice Mosk was recognized by numerous legal and civic organizations for his dedicated public service and his contributions to the development of the law. Many of his majority opinions—and not a few of his dissents—have made lasting contributions to the law of California and to the quality of life of its citizens. Although he wrote on every topic that came before the court—including taxation, insurance law, contracts, and property law—Justice Mosk is probably best known for his landmark opinions in the fields of civil rights and liberties, free speech and free press, equal protection, privacy, state constitutionalism, environmental law, employee rights, and consumer protection.

Following are just a few of the notable opinions Justice Mosk authored, as well as excerpts from some of his more impassioned writings during his tenure on the court. These examples illustrate his lifelong commitment to the rule of law and to a free and fair society.

*Parr v. Municipal Court* (1971) 3 Cal.3d 861, holding that a “Keep Off the Grass” ordinance designed to discriminate against hippies violates the equal protection clause.

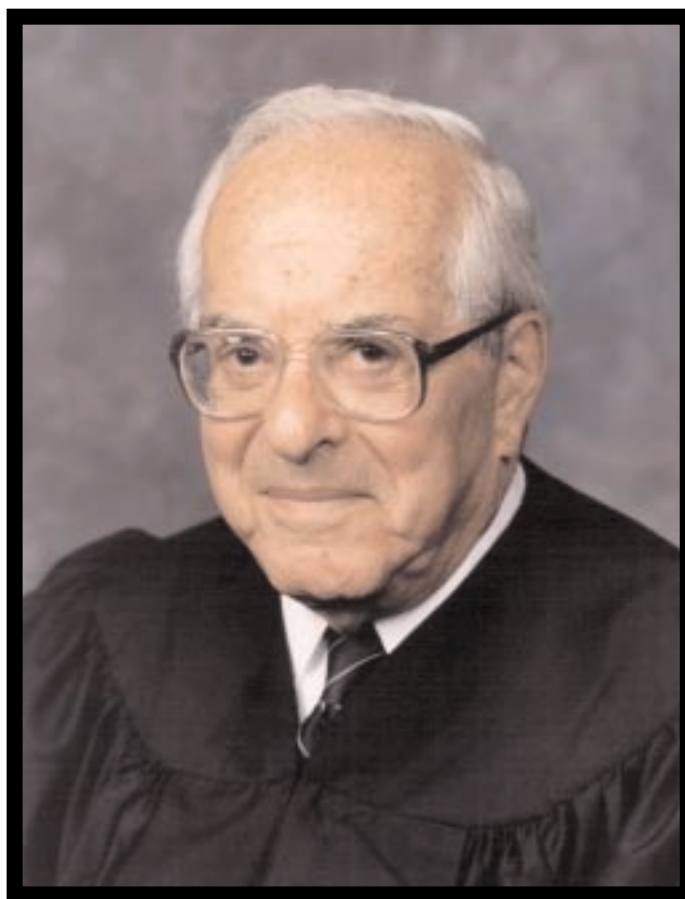
*People v. Wheeler* (1978) 22 Cal.3d 258, holding it unconstitutional for the prosecution to use racially based peremptory challenges against the prospective jurors in a criminal trial.

*Schweiger v. Superior Court* (1970) 3 Cal.3d 507, holding that tenants may defend against unlawful detainer actions on the ground that they were evicted in retaliation for exercising their statutory right to ask for repairs.

*Scott v. Pacific Gas & Electric Co.* (1995) 26 Cal.4th 454, recognizing for the first time an employee’s cause of action for wrongful demotion.

*Sindell v. Abbott Laboratories* (1980) 26 Cal.3d 588, holding that a person unable to identify the particular manufacturer of the drug that injured him or her may jointly sue all the manufacturers of that drug on the theory of enterprise liability.

## Stanley Mosk



1912–2001

### On the Death Penalty

“The day will come when all mankind will deem killing to be immoral, whether committed by one individual or many individuals organized into a state. Unfortunately, morality appears to be a waning rule of conduct today, almost an endangered species, in this uneasy and tortured society of ours: a society in which sadism and violence are highly visible and often accepted commodities, a society in which guns are freely available and energy is scarce, a society in which reason is suspect and emotion is king. Thus with a feeling of futility I recognize the melancholy truth that the anticipated dawn of enlightenment does not seem destined to appear soon.” (*People v. Frierson* (1979) 25 Cal.3d 142, 189 (dissent).)

### On the Rights of Handicapped Parents

“Contemporary psychology confirms what wise families have perhaps always known—that the essence of parenting is not to be found in the harried rounds of daily carpooling endemic to modern suburban life, in the doggedly dutiful acts of ‘togetherness’ committed every weekend by well-meaning fathers and mothers across America. Rather, its essence lies in the ethical, emotional, and intellectual guidance the parent gives to the child throughout his formative years, and often beyond.... [H]owever limited his bodily strength may be, a handicapped parent is a whole person to the child who needs his affection, sympathy, and wisdom to deal with the problems of growing up. Indeed, in such matters his handicap may well be an asset: few can pass through the crucible of a severe physical disability without learning enduring lessons in patience and tolerance.” (*In re Marriage of Carney* (1979) 24 Cal.3d 725, 739.)

### On Sex Discrimination

“I cannot subscribe to the implied premise of the majority that the female of the human species is weak, inferior, and in need of paternalistic protection from the state. That concept is an anachronism in a society in which females have achieved remarkable progress toward equality. The tutelary syndrome of Victorian days has yielded to a new era in which women are contributing their talents in every field of endeavors.... Central to the equal protection clause is the principle that each individual, regardless of sex, is to be treated as an equal, fully participating, and responsible member of society. When a legislative classification perpetuates sexual stereotypes it imposes inequalities that stigmatize women and thereby undermine this principle of equal citizenship.” (*Michael M. v. Superior Court* (1979) 25 Cal.3d 608, 615, 625 (dissent).)

